



February 14, 2007

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## HOUSE BILL No. 1500

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DIGEST OF HB 1500 (Updated February 12, 2007 4:38 pm - DI 14)

**Citations Affected:** IC 7.1-1; IC 7.1-2; IC 7.1-3; IC 7.1-5; IC 35-46; noncode.

**Synopsis:** Alcoholic beverage issues. Requires alcoholic beverage sales in a dealer establishment to be rung up by a sales clerk who: (1) has an employee permit; (2) has alcohol server training; and (3) is at least 21 years of age (this is currently the case with package liquor stores) Allows the ATC to conduct random unannounced inspections of locations where alcoholic beverages are sold or distributed. Allows a person at least 18 years of age and less than 21 years of age to receive or purchase alcoholic beverages as part of an enforcement action. Provides for graduated civil penalties against a permittee for repeat violations of furnishing alcohol to a minor on the licensed premises. Increases the penalty for furnishing an alcoholic beverage to a minor to a Class B misdemeanor if the person is an adult. Allows the sale of alcoholic beverages on New Year's day for off premises consumption.

**Effective:** July 1, 2007.

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**Van Haaften, Stutzman, Kuzman,  
Whetstone**

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January 23, 2007, read first time and referred to Committee on Public Policy.  
February 13, 2007, amended, reported — Do Pass.

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HB 1500—LS 7693/DI 87+



February 14, 2007

First Regular Session 115th General Assembly (2007)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2006 Regular Session of the General Assembly.

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## HOUSE BILL No. 1500

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A BILL FOR AN ACT to amend the Indiana Code concerning alcohol and tobacco.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1       SECTION 1. IC 7.1-1-3-40.5 IS ADDED TO THE INDIANA  
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
3 [EFFECTIVE JULY 1, 2007]: **Sec. 40.5. "Sales clerk" means a**  
4 **person who:**  
5       **(1) rings up; or**  
6       **(2) otherwise records;**  
7 **an alcoholic beverage sale in the course of the person's employment**  
8 **in a dealer establishment.**  
9       SECTION 2. IC 7.1-2-5-8 IS AMENDED TO READ AS  
10 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 8. ~~Forfeiture to State.~~  
11 An officer who makes an arrest for a violation of the provisions of this  
12 title shall seize the evidence of the commission of that violation,  
13 including any vehicle, automobile, boat, air or water craft, or other  
14 conveyance in which alcohol, alcoholic beverages, or malt articles are  
15 kept, possessed, or transported contrary to law, or contrary to a rule or

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1 regulation of the commission. The articles and vehicles mentioned in  
 2 this section and in ~~IC 1971, 7.1-2-5-5, 7.1-2-5-7, IC 7.1-2-5-5 through~~  
 3 **IC 7.1-2-5-7**, are hereby declared forfeited to the state and shall be  
 4 seized.

5 SECTION 3. IC 7.1-3-1.5-2, AS ADDED BY P.L.161-2005,  
 6 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 7 JULY 1, 2007]: Sec. 2. As used in this chapter, "dealer permittee"  
 8 means a person who holds a liquor dealer permit. ~~under IC 7.1-3-10 for~~  
 9 ~~a package liquor store.~~

10 SECTION 4. IC 7.1-3-18-9, AS AMENDED BY P.L.165-2006,  
 11 SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 12 JULY 1, 2007]: Sec. 9. (a) **Except as provided in subsection (j)**, the  
 13 commission may issue an employee's permit to a person who desires to  
 14 act as:

- 15 (1) a sales clerk in a ~~package liquor store; dealer establishment;~~
- 16 (2) an employee who serves wine at a farm winery; or
- 17 (3) a bartender, waiter, waitress, or manager in a retail
- 18 establishment. ~~excepting dining car and boat employees.~~

19 (b) A permit authorized by this section is conditioned upon the  
 20 compliance by the holder with reasonable rules relating to the permit  
 21 which the commission may prescribe from time to time.

22 (c) A permit issued under this section entitles its holder to work for  
 23 any lawful employer. However, a person may work without an  
 24 employee's permit for thirty (30) days from the date shown on a receipt  
 25 for a cashier's check or money order payable to the commission for that  
 26 person's employee's permit application.

27 (d) A person who, for a package liquor store or retail establishment,  
 28 is:

- 29 (1) the sole proprietor;
- 30 (2) a partner, a general partner, or a limited partner in a
- 31 partnership or limited partnership that owns the business
- 32 establishment;
- 33 (3) a member of a limited liability company that owns the
- 34 business establishment; or
- 35 (4) a stockholder in a corporation that owns the business
- 36 establishment;

37 is not required to obtain an employee's permit in order to perform any  
 38 of the acts listed in subsection (a).

39 (e) An applicant may declare on the application form that the  
 40 applicant will use the employee's permit only to perform volunteer  
 41 service that benefits a nonprofit organization. It is unlawful for an  
 42 applicant who makes a declaration under this subsection to use an

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employee's permit for any purpose other than to perform volunteer service that benefits a nonprofit organization.

(f) The commission may not issue an employee's permit to an applicant while the applicant is serving a sentence for a conviction for operating while intoxicated, including any term of probation or parole.

(g) The commission may not issue an employee's permit to an applicant who has two (2) unrelated convictions for operating while intoxicated if:

(1) the first conviction occurred less than ten (10) years before the date of the applicant's application for the permit; and

(2) the applicant completed the sentence for the second conviction, including any term of probation or parole, less than two (2) years before the date of the applicant's application for the permit.

(h) If an applicant for an employee's permit has at least three (3) unrelated convictions for operating while intoxicated in the ten (10) years immediately preceding the date of the applicant's application for the permit, the commission may not grant the issuance of the permit. If, in the ten (10) years immediately preceding the date of the applicant's application the applicant has:

(1) one (1) conviction for operating while intoxicated, and the applicant is not subject to subsection (f); or

(2) two (2) unrelated convictions for operating while intoxicated, and the applicant is not subject to subsection (f) or (g);

the commission may grant or deny the issuance of a permit.

(i) The commission shall revoke a permit issued to an employee under this section if:

(1) the employee is convicted of a Class B misdemeanor for violating IC 7.1-5-10-15(a); or

(2) the employee is convicted of operating while intoxicated after the issuance of the permit.

The commission may revoke a permit issued to an employee under this section for any violation of this title or the rules adopted by the commission.

**(j) This section does not apply to a dining car, boat, or airline employees.**

SECTION 5. IC 7.1-5-6-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. (a) It is unlawful for a person to act as a clerk in a package liquor store; or as a bartender; waiter; waitress; or manager for a retailer permittee in a position that is listed in IC 7.1-3-18-9(a) unless that person has applied for and been issued the appropriate an employee's permit. This section does

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not apply to dining car or boat employees or to a person described in IC 7.1-3-18-9(d).

(b) It is a defense to a charge under this section if, within thirty (30) days after being cited by the commission, the person who was cited produces evidence that the appropriate permit was issued by the commission on the date of the citation.

(c) It is a defense to a charge under this section for a new applicant for a permit if, within thirty (30) days after being cited by the commission, the new applicant who was cited produces a receipt for a cashier's check or money order showing that an application for the appropriate permit was applied for on the date of the citation.

**(d) It is a defense to a charge under this section that the person:**

**(1) acted as a dining car, boat, or airline employee; or**

**(2) is a person described in IC 7.1-3-18-9(d).**

SECTION 6. IC 7.1-5-7-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 8. (a) ~~It is a Class C misdemeanor for A person to who recklessly sell, barter, exchange, provide, or furnish~~ **sells, barters, exchanges, provides, or furnishes** an alcoholic beverage to a minor **commits:**

**(1) a Class B misdemeanor if the person is at least twenty-one (21) years of age; and**

**(2) a Class C misdemeanor if the person is less than twenty-one (21) years of age.**

(b) This section shall not be construed to impose civil liability upon any educational institution of higher learning, including but not limited to public and private universities and colleges, business schools, vocational schools, and schools for continuing education, or its agents for injury to any person or property sustained in consequence of a violation of this section unless such institution or its agent sells, barters, exchanges, provides, or furnishes an alcoholic beverage to a minor.

SECTION 7. IC 7.1-5-7-13, AS AMENDED BY P.L.161-2005, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 13. Section 12 of this chapter does not prohibit the following:

(1) The employment of a person at least eighteen (18) years of age but less than twenty-one (21) years of age on or about licensed premises where alcoholic beverages are sold, furnished, or given away for consumption either on or off the licensed premises, for a purpose other than:

(A) selling;

(B) furnishing, other than serving;

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(C) consuming; or  
 (D) otherwise dealing in;  
 alcoholic beverages.

(2) A person at least eighteen (18) years of age but less than twenty-one (21) years of age from ringing up a sale of alcoholic beverages in the course of the person's employment **in a dining area or family room of a restaurant or hotel.**

(3) A person at least nineteen (19) years of age but less than twenty-one (21) years of age who:

(A) has successfully completed an alcohol server training program certified under IC 7.1-3-1.5; and

(B) serves alcoholic beverages in a dining area or family room of a restaurant or hotel:

(i) in the course of a person's employment as a waiter, waitress, or server; and

(ii) under the supervision of a person who is at least twenty-one (21) years of age, is present at the restaurant or hotel, and has successfully completed an alcohol server training program certified under IC 7.1-3-1.5 by the commission.

This subdivision does not allow a person at least nineteen (19) years of age but less than twenty-one (21) years of age to be a bartender.

SECTION 8. IC 7.1-5-7-16 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 16. The commission shall conduct random unannounced inspections at locations where alcoholic beverages are sold or distributed to ensure compliance with this title. Only the commission, an Indiana law enforcement agency, the office of the sheriff of a county, or an organized police department of a municipal corporation may conduct the random unannounced inspections. These entities may use retired or off-duty law enforcement officers to conduct inspections under this section.**

SECTION 9. IC 7.1-5-7-17 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 17. (a) Notwithstanding any other law, an enforcement officer vested with full police powers and duties may engage a person who is:**

(1) at least eighteen (18) years of age; and

(2) less than twenty-one (21) years of age;

**to receive or purchase alcoholic beverages as part of an enforcement action under this article.**

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(b) The initial or contemporaneous receipt or purchase of an alcoholic beverage under this section by a person described in subsection (a) must:

- (1) occur under the direction of an enforcement officer vested with full police powers and duties; and
- (2) be a part of the enforcement action.

SECTION 10. IC 7.1-5-10-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. (a) Except as provided in subsection (d), it is unlawful to sell alcoholic beverages at the following times:

- (1) At a time other than that made lawful by the provisions of IC 7.1-3-1-14.
- (2) On Christmas Day and until 7:00 o'clock in the morning, prevailing local time, the following day.
- (3) On primary election day, and general election day, from 3:00 o'clock in the morning, prevailing local time, until the voting polls are closed in the evening on these days.
- (4) During a special election under IC 3-10-8-9 (within the precincts where the special election is being conducted), from 3:00 o'clock in the morning until the voting polls are closed in the evening on these days.

(b) During the time when the sale of alcoholic beverages is unlawful, no alcoholic beverages shall be sold, dispensed, given away, or otherwise disposed of on the licensed premises and the licensed premises shall remain closed to the extent that the nature of the business carried on the premises, as at a hotel or restaurant, permits.

~~(c) It is unlawful to sell alcoholic beverages on New Years Day for off-premises consumption.~~

~~(d)~~ (c) It is lawful for the holder of a valid beer, wine, or liquor wholesaler's permit to sell to the holder of a valid retailer's or dealer's permit at any time.

SECTION 11. IC 7.1-5-10-23 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 23. (a) It is unlawful for a person who is the proprietor of a package liquor store, drug store, or grocery store to allow a purchaser of alcoholic beverages, or any other person who is not a sales clerk, to ring up or otherwise record an alcoholic beverage sale.

(b) It is unlawful for a purchaser of alcoholic beverages, or any other person who is not a sales clerk, to ring up or otherwise record an alcoholic beverage sale in a:

- (1) drug store;

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(2) grocery store; or

(3) package liquor store.

SECTION 12. IC 35-46-1-10.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 10.1. (a) If a permittee or an agent or employee of a permittee violates IC 7.1-5-7-8 on the licensed premises, in addition to any other penalty, a civil judgment may be imposed as follows:**

(1) If the licensed premises at that specific business location has not been issued a citation or summons for a violation of this section in the previous ninety (90) days, a civil penalty of five hundred dollars (\$500).

(2) If the licensed premises at that specific business location has had one (1) citation or summons issued for a violation of this section in the previous ninety (90) days, a civil penalty of one thousand dollars (\$1,000).

(3) If the licensed premises at that specific business location has had two (2) citations or summonses issued for a violation of this section in the previous ninety (90) days, a civil penalty of two thousand five hundred dollars (\$2,500).

(4) If the licensed premises at that specific business location has had three (3) or more citations or summonses issued for a violation of this section in the previous ninety (90) days, a civil penalty of five thousand dollars (\$5,000).

A permittee may not be issued a citation or summons for a violation of this section more than once every twenty-four (24) hours.

(b) The defenses set forth in IC 7.1-5-7-5.1 are available to a permittee in an action under this section.

(c) Unless a person buys or receives an alcoholic beverage under the direction of a law enforcement officer as part of an enforcement action, a permittee that sells alcoholic beverages is not liable for a violation of this section unless the person less than twenty-one (21) years of age who bought or received the alcoholic beverage is charged for violating IC 7.1-5-7-7.

SECTION 13. [EFFECTIVE JULY 1, 2007] IC 7.1-5-7-8, as amended by this act, applies only to offenses committed after June 30, 2007.

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## COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Policy, to which was referred House Bill 1500, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, delete lines 1 through 15.

Page 2, delete lines 1 through 19.

Page 2, delete lines 28 through 35.

Page 3, delete lines 10 through 42.

Delete pages 4 and 5.

Page 6, delete lines 1 through 8.

Page 7, delete lines 36 through 42.

Delete page 8.

Page 9, delete lines 1 through 30.

Page 10, delete lines 9 through 27, begin a new paragraph and insert:

"SECTION 8. IC 7.1-5-7-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 8. (a) ~~It is a Class C misdemeanor for~~ A person ~~to who~~ recklessly ~~sell, barter, exchange, provide, or furnish~~ **sells, barters, exchanges, provides, or furnishes** an alcoholic beverage to a minor **commits:**

**(1) a Class B misdemeanor if the person is at least twenty-one (21) years of age; and**

**(2) a Class C misdemeanor if the person is less than twenty-one (21) years of age.**

(b) This section shall not be construed to impose civil liability upon any educational institution of higher learning, including but not limited to public and private universities and colleges, business schools, vocational schools, and schools for continuing education, or its agents for injury to any person or property sustained in consequence of a violation of this section unless such institution or its agent sells, barters, exchanges, provides, or furnishes an alcoholic beverage to a minor."

Page 12, between lines 2 and 3, begin a new paragraph and insert:

"SECTION 10. IC 7.1-5-10-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. (a) Except as provided in subsection (d), it is unlawful to sell alcoholic beverages at the following times:

(1) At a time other than that made lawful by the provisions of IC 7.1-3-1-14.

(2) On Christmas Day and until 7:00 o'clock in the morning, prevailing local time, the following day.

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(3) On primary election day, and general election day, from 3:00 o'clock in the morning, prevailing local time, until the voting polls are closed in the evening on these days.

(4) During a special election under IC 3-10-8-9 (within the precincts where the special election is being conducted), from 3:00 o'clock in the morning until the voting polls are closed in the evening on these days.

(b) During the time when the sale of alcoholic beverages is unlawful, no alcoholic beverages shall be sold, dispensed, given away, or otherwise disposed of on the licensed premises and the licensed premises shall remain closed to the extent that the nature of the business carried on the premises, as at a hotel or restaurant, permits.

~~(c) It is unlawful to sell alcoholic beverages on New Years Day for off-premises consumption.~~

~~(d)~~ (c) It is lawful for the holder of a valid beer, wine, or liquor wholesaler's permit to sell to the holder of a valid retailer's or dealer's permit at any time."

Page 12, line 25, delete "fifty dollars (\$50)." and insert "**five hundred dollars (\$500).**".

Page 12, line 29, delete "hundred dollars (\$100)." and insert "**thousand dollars (\$1,000).**".

Page 12, line 33, delete "two hundred fifty dollars (\$250)." and insert "**two thousand five hundred dollars (\$2,500).**".

Page 12, line 37, delete "five hundred dollars (\$500)." and insert "**five thousand dollars (\$5,000).**".

Page 13, delete lines 7 through 8.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1500 as introduced.)

VAN HAAFTEN, Chair

Committee Vote: yeas 7, nays 0.

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